

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

UNITED STATES OF AMERICA )  
 )  
 v. ) 2:07cr26-WKW  
 )  
FREDERICK A. SMITH )

## **UNOPPOSED MOTION TO CONTINUE TRIAL**

COMES NOW the Defendant, Frederick Smith, by and through undersigned counsel, Kevin L. Butler, and pursuant to 18 U.S.C. §§ 3161(h)(1)(F), (h)(8)(B)(I) and (h)(8)(B)(iv) respectfully moves this Court to continue the trial of this matter past the currently scheduled April 23, 2007 trial term. In support of this Motion, Defendant would show the following:

1. Mr. Smith filed a motion to suppress evidence in this case on March 29, 2007.

The motion is set for a hearing on April 12, 2007.

2. The request for a continuance is sought to allow careful consideration and

resolution of Defendant's pending motion to suppress prior to a trial of this matter.

3. The United States, through Assistant United States Attorney, Tommie Hardwick,

does not oppose this requested continuance.

4. Mr. Smith has no objection to the requested continuance, and a waiver of speedy

trial is filed is attached to this motion.

5. Requests for a continuance are addressed to the sound discretion of the trial court,

*United States v. Darby*, 744 F.2d 1508, 1521 (11<sup>th</sup> Cir. 1984), *reh'g denied* 749 F.2d 733, *cert.*

denied, 471 U.S. 1100 (1985). Additionally, pursuant to 18 U.S.C. §§ 3161(h)(1)(F), (h)(8)(B)(I) and (h)(8)(B)(iv), if it is in the interest of justice to allow sufficient time to consider the pretrial

motion, this court has authority to continue trial.

**WHEREFORE**, Mr. Smith respectfully requests that this Motion be granted and the trial in this matter be continued from the April 23, 2007 trial term.

Dated this 6<sup>th</sup> day of April 2007.

Respectfully submitted,

s/ Kevin L. Butler  
KEVIN L. BUTLER  
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## **CERTIFICATE OF SERVICE**

I hereby certify that on April 6, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Tommie Hardwick, Esquire  
Assistant United States Attorney  
One Court Square, Suite 201  
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler  
KEVIN L. BUTLER  
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**WAIVER OF RIGHT TO SPEEDY TRIAL**

The undersigned Defendant, **FREDERICK A. SMITH**, after being first advised of his right to a speedy trial as guaranteed him by the Sixth Amendment of the United States Constitution and the implementation of said right in 18 U.S.C. § 3161, hereby waives his right to a speedy trial as to the April 23, 2007 trial term.

Dated this 1<sup>st</sup> day of April 2007.

F. Frederick A. Smith  
**FREDERICK SMITH**